

LODGED

Joscelin B. Thomas
14626 Red Gum Street
Moreno Valley, CA 92555
joscelin.thomas@gmail.com
951-616-0044

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CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
RIVERSIDE

BY: _____

BY: _____

CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
RIVERSIDE

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FILED
T/S

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

Joscelin B. Thomas
Plaintiff

ED CV 12 - 01888

SJO

(SPX)

v.

Convergent Outsourcing, Inc.
d/b/a ER Collection
Defendant

COMPLAINT

**VIOLATION OF FAIR CREDIT
REPORTING ACT
15 U.S.C. 1681 et seq.**

TRIAL BY JURY

PRELIMINARY STATEMENT

1. This is an action for damages; brought for damages for the violation of the Fair Credit Reporting Act (FCRA) 15 USC §1681, *et seq.*

JURISDICTION

2. This court has Jurisdiction pursuant to 15 U.S.C. §1681p and 28 U.S.C. §1331.
3. All conditions precedence to the bringing of this action has been performed.

VENUE

4. The occurrences which give rise to this action occurred in Riverside County, California and Plaintiff resides in Riverside County, California.

S/21

ifp

1 5. Venue is proper in the Central District of California.

2 **PARTIES**

3 6. The Plaintiff in this lawsuit is Joscelin B. Thomas, (hereinafter "Plaintiff") who at
4 all times relevant herein was a resident of Riverside County, California.

5 7. The Defendant in this lawsuit is Convergent Outsourcing, Inc., d/b/a ER Collection
6 (hereinafter "ERC") who is an unknown entity with offices at 800 SW 39th ST., Renton,
7 WA 98057, who transacts business as a debt collector in Riverside County, California.
8

9 **FACTUAL ALLEGATION**

10 8. Plaintiff received her credit report from a major credit reporting agency Experian and found
11 an entry by an entity that was unfamiliar within the credit report.

12 9. Plaintiff discovered after examination of her Experian consumer credit report that ERC had
13 obtained her consumer credit report on or about July 17, 2009.

14 10. Plaintiff discovered after examination of her Experian consumer credit report that ERC had
15 obtained her consumer credit report a second time on or about August 12, 2009.

16 11. Discovery of the violation brought forth herein occurred in May of 2011 and are within the
17 statute of limitations as defined in the FCRA 15 U.S.C. § 1681p.

18 **Count I**

19 **VIOLATION OF THE FAIR CREDIT REPORTING ACT(FCRA), 15 U.S.C. § 1681**
20 **WILLFUL NON-COMPLIANCE BY DEFENDANT ERC**

21 12. Plaintiff restates and reiterates herein all previous paragraphs 1-11.

22 13. Plaintiff is a consumer within the meaning of the FCRA 15 U.S.C. § 1681a(c).

23 14. Experian is a credit reporting agency within the meaning of 15 U.S.C. § 1681a(f).

24 15. Consumer credit report is a consumer report within the meaning of the FCRA 15 U.S.C. §
25 1681a(d).

26 16. Fair Credit Reporting Act (FCRA) 15 U.S.C. § 1681b defines the permissible purpose for
27 which a person may obtain a consumer credit report.

28 17. Such permissible purpose as defined by Fair Credit Reporting Act (FCRA) 15 U.S.C. §
1681b, which has **limited circumstances granting permissible purpose under section**
1681(b), did not apply to ERC.

1 18. At or about the time ERC obtained Plaintiff consumer credit report:

- 2 A. Plaintiff did not authorize consumer reporting agency Experian to furnish her
3 consumer report to ERC.
4 B. Plaintiff did not authorize ERC to obtain her consumer report from Experian.
5 C. Plaintiff did not apply for any credit, loan, or services with ERC.
6 D. Plaintiff did not have any contractual relationship for credit, loan, or services with
7 ERC.
8 E. Plaintiff did not owe any debt to ERC.
9 F. Plaintiff did not owe any debt as the result of a judgment to ERC.
10 G. Plaintiff did not apply for any employment with ERC.
11 H. Plaintiff did not apply for any insurance from ERC.
12 I. Plaintiff did not have any existing account or credit obligation with ERC.
13 J. Plaintiff was not named as an "authorized user" on any account with ERC
14 K. No court having jurisdiction issued any order to Experian to furnish Plaintiff's
15 consumer report to ERC.
16 L. No head of State or local child support enforcement agency requested Experian to
17 provide Plaintiff's consumer report to ERC.
18 M. No agency administering a state plan under section 454 of the Social Security Act
19 (42 U.S.C. § 654) requested Experian to provide Plaintiff's consumer report to
20 ERC.
21 N. Plaintiff did not apply for any license or other benefit granted by a governmental
22 instrumentality through ERC.
23 O. Plaintiff did not receive any "firm offer of credit or insurance" from ERC.

24 19. At no time did Plaintiff give her consent for ERC to acquire her consumer credit report
25 from any credit reporting agency.

26 20. The action of ERC obtaining the consumer credit report of the Plaintiff on July 17, 2009
27 with no permissible purpose or Plaintiff's consent was a willful violation of FCRA, 15
28 U.S.C. § 1681b and an egregious violation of Plaintiff's right to privacy.

29 21. ERC had a duty to properly ascertain if there was any **legitimate** permissible purpose
before obtaining Plaintiff's consumer credit report and ERC breached said duty by failing to

1 do so. There was no account and/or debt that ERC had any right to collect to have had
2 permissible purpose to obtain Plaintiff's consumer credit report and therefore Plaintiff is
3 entitled to damages.

4 WHEREFORE, Plaintiff demands judgment for damages against Defendant ERC, for
5 statutory damages of \$1000.00, any attorney's fees and costs, pursuant to 15 U.S.C. § 1681n.

6 **Count II**

7 **VIOLATION OF THE FAIR CREDIT REPORTING ACT(FCRA), 15 U.S.C. § 1681**
8 **WILLFUL NON-COMPLIANCE BY DEFENDANT ERC**

- 9 22. Plaintiff restates and reiterates herein all previous paragraphs 1-11.
- 10 23. Plaintiff is a consumer within the meaning of the FCRA 15 U.S.C. § 1681a(c).
- 11 24. Experian is a credit reporting agency within the meaning of 15 U.S.C. § 1681a(f).
- 12 25. Consumer credit report is a consumer report within the meaning of the FCRA 15 U.S.C. §
13 1681a(d).
- 14 26. Fair Credit Reporting Act (FCRA) 15 U.S.C. § 1681b defines the permissible purpose for
15 which a person may obtain a consumer credit report.
- 16 27. Such permissible purpose as defined by Fair Credit Reporting Act (FCRA) 15 U.S.C. §
17 1681b, which has **limited circumstances granting permissible purpose under section**
18 **1681(b), did not apply to ERC.**
- 19 28. At no time did Plaintiff give her consent for ERC to acquire her consumer credit report
20 from any credit reporting agency.
- 21 29. Plaintiff has never had any business dealings or any account with, made application for
22 credit from, made application for employment with, applied for insurance from, or received a
23 bona-fide offer of credit from ERC to acquire her consumer credit report from any credit
24 reporting agency.
- 25 30. The action of ERC obtaining the consumer credit report of the Plaintiff on August 12, 2009
26 with no permissible purpose or Plaintiff's consent was a willful violation of FCRA, 15
27 U.S.C. § 1681b and an egregious violation of Plaintiff's right to privacy.
- 28 31. ERC had a duty to properly ascertain if there was any **legitimate** permissible purpose
before obtaining Plaintiff's consumer credit report and ERC breached said duty by failing to
do so. There was no account and/or debt that ERC had any right to collect to have had

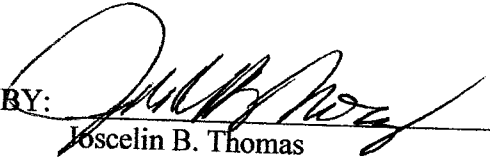
1 permissible purpose to obtain Plaintiff's consumer credit report and therefore Plaintiff is
2 entitled to damages.

3 WHEREFORE, Plaintiff demands judgment for damages against Defendant ERC, for
4 statutory damages of \$1000.00, any attorney's fees and costs, pursuant to 15 U.S.C. § 1681n.
5

DEMAND FOR TRIAL BY JURY

6 Plaintiff hereby demands a trial by jury of all issues as a matter of law.
7

8 DATE: 8-13-2012
9

10
11 BY: 
12 Joscelin B. Thomas
13 14626 Red Gum St.
14 Moreno Valley, CA 92555
15 joscelin.thomas@gmail.com
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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Judge S. James Otero and the assigned discovery Magistrate Judge is Sheri Pym.

The case number on all documents filed with the Court should read as follows:

EDCV12-01338 SJO (SPx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge.

NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:



Western Division

312 N. Spring St., Rm. G-8
Los Angeles, CA 90012



Southern Division

411 West Fourth St., Rm 1-053
Santa Ana, CA 92701-4516



Eastern Division

3470 Twelfth St., Rm. 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

I (a) PLAINTIFFS (Check box if you are representing yourself G) Thomas, Joscelyn B		DEFENDANTS Convergent Outsourcing, Inc. d/b/a ER Collection	
(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.) Joscelyn B. Thomas 14626 Red Gum Street Moreno Valley, CA 92555 951-616-0044		Attorneys (If Known)	

II. BASIS OF JURISDICTION (Place an X in one box only.) G 1 U.S. Government Plaintiff <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) G 2 U.S. Government Defendant G 4 Diversity (Indicate Citizenship of Parties in Item III)	III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant.) <table style="width:100%; border: none;"> <tr> <td style="width:35%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> <td style="width:45%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> </tr> <tr> <td>Citizen of This State</td> <td style="text-align: center;">G 1</td> <td style="text-align: center;">G 1</td> <td>Incorporated or Principal Place of Business in this State</td> <td style="text-align: center;">G 4</td> <td style="text-align: center;">G 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;">G 2</td> <td style="text-align: center;">G 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td style="text-align: center;">G 5</td> <td style="text-align: center;">G 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;">G 3</td> <td style="text-align: center;">G 3</td> <td>Foreign Nation</td> <td style="text-align: center;">G 6</td> <td style="text-align: center;">G 6</td> </tr> </table>		PTF	DEF		PTF	DEF	Citizen of This State	G 1	G 1	Incorporated or Principal Place of Business in this State	G 4	G 4	Citizen of Another State	G 2	G 2	Incorporated and Principal Place of Business in Another State	G 5	G 5	Citizen or Subject of a Foreign Country	G 3	G 3	Foreign Nation	G 6	G 6
	PTF	DEF		PTF	DEF																				
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Citizen of Another State	G 2	G 2	Incorporated and Principal Place of Business in Another State	G 5	G 5																				
Citizen or Subject of a Foreign Country	G 3	G 3	Foreign Nation	G 6	G 6																				

IV. ORIGIN (Place an X in one box only.)

☒ 1 Original Proceeding
 G 2 Removed from State Court
 G 3 Remanded from Appellate Court
 G 4 Reinstated or Reopened
 G 5 Transferred from another district (specify):
 G 6 Multi-District Litigation
 G 7 Appeal to District Judge from Magistrate Judge

V. REQUESTED IN COMPLAINT: JURY DEMAND: ☒ Yes G No (Check 'Yes' only if demanded in complaint.)

CLASS ACTION under F.R.C.P. 23: G Yes ☒ No **MONEY DEMANDED IN COMPLAINT:** \$ 2,000.00

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)
 FCRA 15 U.S.C. 1681 et seq.

VII. NATURE OF SUIT (Place an X in one box only.)

OTHER STATUTES G 400 State Reapportionment G 410 Antitrust G 430 Banks and Banking G 450 Commerce/ICC Rates/etc. G 460 Deportation G 470 Racketeer Influenced and Corrupt Organizations <input checked="" type="checkbox"/> G 480 Consumer Credit G 490 Cable/Sat TV G 810 Selective Service G 850 Securities/Commodities/Exchange G 875 Customer Challenge 12 USC 3410 G 890 Other Statutory Actions G 891 Agricultural Act G 892 Economic Stabilization Act G 893 Environmental Matters G 894 Energy Allocation Act G 895 Freedom of Info. Act G 900 Appeal of Fee Determination Under Equal Access to Justice G 950 Constitutionality of State Statutes	CONTRACT G 110 Insurance G 120 Marine G 130 Miller Act G 140 Negotiable Instrument G 150 Recovery of Overpayment & Enforcement of Judgment G 151 Medicare Act G 152 Recovery of Defaulted Student Loan (Excl. Veterans) G 153 Recovery of Overpayment of Veteran's Benefits G 160 Stockholders' Suits G 190 Other Contract G 195 Contract Product Liability G 196 Franchise REAL PROPERTY G 210 Land Condemnation G 220 Foreclosure G 230 Rent Lease & Ejectment G 240 Torts to Land G 245 Tort Product Liability G 290 All Other Real Property	TORTS PERSONAL INJURY G 310 Airplane G 315 Airplane Product Liability G 320 Assault, Libel & Slander G 330 Fed. Employers' Liability G 340 Marine G 345 Marine Product Liability G 350 Motor Vehicle G 355 Motor Vehicle Product Liability G 360 Other Personal Injury G 362 Personal Injury-Med Malpractice G 365 Personal Injury-Product Liability G 368 Asbestos Personal Injury Product Liability IMMIGRATION G 462 Naturalization Application G 463 Habeas Corpus-Alien Detainee G 465 Other Immigration Actions	TORTS PERSONAL PROPERTY G 370 Other Fraud G 371 Truth in Lending G 380 Other Personal Property Damage G 385 Property Damage Product Liability BANKRUPTCY G 422 Appeal 28 USC 158 G 423 Withdrawal 28 USC 157 CIVIL RIGHTS G 441 Voting G 442 Employment G 443 Housing/Accommodations G 444 Welfare G 445 American with Disabilities - Employment G 446 American with Disabilities - Other G 440 Other Civil Rights	PRISONER PETITIONS G 510 Motions to Vacate Sentence Habeas Corpus G 530 General G 535 Death Penalty G 540 Mandamus/Other G 550 Civil Rights G 555 Prison Condition FORFEITURE / PENALTY G 610 Agriculture G 620 Other Food & Drug G 625 Drug Related Seizure of Property 21 USC 881 G 630 Liquor Laws G 640 R.R. & Truck G 650 Airline Regs G 660 Occupational Safety /Health G 690 Other	LABOR G 710 Fair Labor Standards Act G 720 Labor/Mgmt. Relations G 730 Labor/Mgmt. Reporting & Disclosure Act G 740 Railway Labor Act G 790 Other Labor Litigation G 791 Empl. Ret. Inc. Security Act PROPERTY RIGHTS G 820 Copyrights G 830 Patent G 840 Trademark SOCIAL SECURITY G 861 HIA (1395ff) G 862 Black Lung (923) (405(g)) G 863 DIWC/DIWW (405(g)) G 864 SSID Title XVI G 865 RSI (405(g)) FEDERAL TAX SUITS G 870 Taxes (U.S. Plaintiff or Defendant) G 871 IRS-Third Party 26 USC 7609
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ED CV 12 - 01338 SJO

FOR OFFICE USE ONLY: Case Number: _____

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

AUG 27 2012

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEETVIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? ☒ No
If yes, list case number(s): _____VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? ☒ No
If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply)
- ☐ G A. Arise from the same or closely related transactions, happenings, or events; or
- ☐ G B. Call for determination of the same or substantially related or similar questions of law and fact; or
- ☐ G C. For other reasons would entail substantial duplication of labor if heard by different judges; or
- ☐ G D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)

- (a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named plaintiff resides.
- ☒ Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Riverside	

- (b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named defendant resides.
- ☒ Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
	Washington

- (c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH claim arose.
- Note: In land condemnation cases, use the location of the tract of land involved.**

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Riverside	

* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

Note: In land condemnation cases, use the location of the tract of land involved.X. SIGNATURE OF ATTORNEY (OR PRO PER):  Date 8-13-2012

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Central District of California

Joscelin B. Thomas

Plaintiff

v.

Convergent Outsourcing, Inc. d/b/a ER Collection

Defendant

ED CV 12 - 01338

Civil Action No.

SJO SPx

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address)

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Joscelin B. Thomas
14626 Red Gum Street
Moreno Valley, CA 92555

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

TERRY NAFISI

CLERK OF COURT

Date:

AUG 27 2012

FOR OFFICE USE ONLY

L. MORRAY
Signature of Clerk or Deputy Clerk



(1134)